REMARKS

1. Introduction

In the Office Action mailed May 9, 2005, the Examiner rejected all claims under 35 U.S.C. 103(a). Specifically, the Examiner rejected claims 1-3, 5-6, and 23 over Whang et al., U.S. Patent No. 6,609,008 ("Whang") in view of Steer, U.S. Patent No. 6,845,246 ("Steer"), rejected claim 4 over Whang in view of Steer and in further view of Cheng et al., U.S. Patent No. 6,154,638 ("Cheng"), rejected claims 7-8 and 13 over Whang in view of Soliman, U.S. Patent No. 6,490,460 ("Soliman"), rejected claims 9-12 over Whang in view of Soliman and in further view of Chen, U.S. Patent No. 6,763,244 ("Chen"), rejected claims 14-20 over Chen in view of Steer and in further view of Soliman, rejected claim 21 over Chen in view of Steer, and rejected claim 22 over Chen in view of Steer and in further view of Cheng.

In this Response, Applicant has amended claims 1-3, canceled claims 4, 5 and 21-23, and added new claims 25-28. Thus, claims 1-3, 6-20, and 24-28 are currently pending.

For the reasons set forth below, Applicant requests reconsideration and allowance of the claims as amended.

2. Response to Claim Rejections

a. Claims 1-3, 6, and 26-28

Of these claims, claim 1 is independent. The Examiner rejected independent claim 1 under § 103(a) as being unpatentable over Whang in view of Steer. In response, Applicant has amended claim 1 to specify that the ***base station*** selects an initial power level of a primary communication channel for communication from the mobile station to the base station.

Applicant submits that this amendment clearly distinguishes claim 1 from the Whang/Steer combination.

According to the Examiner, Whang teaches (i) based on the location of the mobile station, selecting an initial power level of a primary communication channel and (ii) starting at the initial power level, engaging in a power control process that regulates the power of the primary communication channel, and (iii) Steer teaches determining a location of the mobile station. However, as the Examiner has acknowledged, in Whang, the ***mobile station*** sets the initial transmit power level of the reverse link based on a measurement of S/I (col. 10, lines 3-7, lines 14-16). In contrast, claim 1, as amended, specifies that the ***base station*** selects the initial power level. Thus, the Examiner's rationale for rejecting claim 1 is rendered inapplicable by Applicant's amendment. Indeed, by teaching that the mobile station selects its initial transmit power level, Whang teaches away from the method of amended claim 1. As a result, Steer, the other reference cited by the Examiner, cannot be combined with Whang to establish a *prima facie* case of obviousness. *See* MPEP § 2146(X)(D)(2) ("It is improper to combine references where the references teach away from their combination.").

Accordingly, Applicant submits that claim 1 is allowable over Whang, Steer, and the other prior art of record. Applicants further submit that claims 2-3, 6, and 26-28 are allowable for at least the reason that the claims are dependent on an allowable claim.

b. Claims 7-13

Of these claims, claim 7 is independent. The Examiner rejected claim 7 under § 103(a) as being unpatentable over Whang in view of Soliman. However, Applicant respectfully submits that the Examiner's rejection of claim 7 is improper because it is premised on a misreading of Soliman.

Claim 7 recites "based on the location, selecting a reverse link setpoint." The Examiner has alleged that Soliman teaches selecting a reverse link set point based on the location of the mobile station. However, Soliman does not teach a reverse link ***setpoint*** but, rather, upper and lower ***limits*** of the reverse link power control loops. For example, Soliman states that "the position of the mobile station is applied to a look up table associated with a cell (such as Table I) in order to determine the upper and lower limits of the forward and reverse link power control loops" (col. 4, lines 38-41). Table I, in turn, lists values for "Desired SNR Maximum" and "Desired SNR Minimum" for the reverse link. These values represent the maximum and minimum desired signal to noise ratios associated with the reverse link power control loop to be applied at the given location (col. 5, lines 1-4). Thus, the power control loop attempts to maintain the signal to noise ratio of the reverse link signal above the minimum value (col. 2, lines 40-44) and attempts to maintain the signal to noise ratio of the reverse link signal below the maximum value (col. 3, lines 19-23).

In other words, Soliman teaches a power control loop that attempts to keep the signal to noise ratio within a range of values. In contrast, claim 7 teaches a reverse link ***setpoint***, i.e., a particular value that is desired to be matched. For example, as specified in dependent claim 9, a measured value of E_b/N_o can be compared to the reverse link setpoint and, if it does not match, the mobile station can be instructed to change its transmit power.

Accordingly, Applicant submits that claim 7 is allowable over Whang, Soliman, and the other prior art of record. Applicants further submit that claims 8-13 are allowable for at least the reason that the claims are dependent on an allowable claim.

c. Claims 14 and 15

Of these claims, claim 14 is independent. The Examiner rejected claim 14 under § 103(a) as being unpatentable over Chen in view of Steer and in further view of Soliman. However, Applicant submits that the Examiner's rejection of claim 14 is improper because it is premised on a misreading of Soliman. In particular, claim 14 recites "based on the location, selecting from a database values of initial mobile station transmit power, ***reverse link setpoint***, and initial base station transmit power for a primary communication channel." The Examiner has alleged that Soliman teaches a reverse link setpoint that is selected based on location. However, as noted above with respect to claim 7, Soliman actually teaches selecting upper and lower limits, not a setpoint, based on location.

Accordingly, Applicant submits that claim 14 is allowable over Chen, Steer, Soliman, and the other prior art of record. Applicant further submits that claim 15 is allowable for at least the reasons that it is dependent on an allowable claim.

d. Claims 16-20

Of these claims, claim 16 is independent. The Examiner rejected claim 16 under § 103(a) as being unpatentable over Chen in view of Steer and in further view of Soliman. However, Applicant submits that the Examiner's rejection of claim 16 is improper because it is premised on a misreading of Soliman. In particular, claim 16 recites "based on the location, selecting a setpoint." The Examiner has alleged that Soliman teaches a location-based setpoint. However, as noted above with respect to claim 7, Soliman actually teaches location-based upper and lower limits, not a location-based setpoint.

Accordingly, Applicant submits that claim 16 is allowable over Chen, Steer, Soliman, and the other prior art of record. Applicants further submit that claims 17-20 are allowable for at least the reason that the claims are dependent on an allowable claim.

e. New claims 24 and 25

Applicant has canceled claim 23, which was directed to a "power control system" and has added new claims 24 and 25. These new claims are directed to a "power control system" comprising a base station controller (BSC) that when a mobile station is going to engage in a call, (i) determines a location of the mobile station, (ii) selects an initial power level based on the location of the mobile station, and (iii) instructs the mobile station to transmit at the initial power level. Applicant submits that new claims 24 and 25 are clearly allowable.

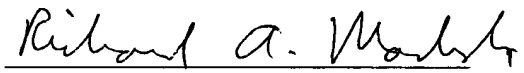
The Examiner had rejected claim 23 under § 103(a) as being unpatentable over Whang in view of Steer. Specifically, the Examiner cited Whang as teaching selecting an initial power level based on the mobile station's location. However, as noted above with respect to claim 1, Whang actually teaches that the mobile station selects its initial transmit power level. In contrast, new claims 24 and 25 specify that a BSC selects an initial power level and instructs the mobile station to transmit at that initial power level. By teaching that the mobile station selects its initial transmit power level, Whang teaches away from the "power control system" of new claims 24 and 25. Accordingly, Applicant submits that new claims 24 and 25 are allowable over Whang, Steer, and the other prior art of record.

3. Conclusion

Applicant submits that the present application is in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, the Examiner is invited to telephone the undersigned at any time at (312) 913-0001.

Respectfully submitted,

Date: June 14, 2005



Richard A. Machonkin
Reg. No. 41,962

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Dr., 31st Floor
Chicago, IL 60606
Tel: 312-913-0001
Fax: 312-913-0002